

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

JASON NICHOLAS KRANZ

P R E L I M I N A R Y I N Q U I R Y

Volume 2

HEARD BEFORE THE HONOURABLE MR. JUSTICE F.A. SARGENT
On Tuesday, November 25, 2008, at OTTAWA, Ontario

CHARGES: sec.264(3) C.C.C. x 3
 sec.264(1)(2) C.C.C. x 2

APPEARANCES:

M. Karimjee, Mr.

Counsel for the Crown

D. Nugent, Mr.

Counsel for the accused

(i)
Table of Contents

ONTARIO COURT OF JUSTICE

T A B L E O F C O N T E N T S - Volume 2

<u>WITNESSES:</u>	<u>Exam. in-Ch.</u>	<u>Cr- exam.</u>	<u>Re- Exam.</u>
PETTIS, Scott MacKenzie	15	36	--
JEHA, Constantine	70	72	--
DANYLUK, Peter	78	90	--
NOEL, Stephan	102	105	--

<u>EXHIBIT NUMBER</u>	<u>ENTERED ON PAGE</u>
A Letters of Complaint & Exoneration	35
5 Video of Phone Booth	36
6 Photo of Vehicle	83
7 Photo of Front of Vehicle	84
8 Collective Documents	90
9 Property Report of Aug. 24/07	103
10 Storage Box	104
11 Last Part of Box	111

Transcript Order Received: May 7, 2009

Transcript Completed: June 1, 2009

102. Volume 2
R. v. Kranz
S. Noel - ex-in-ch

5 THE COURT: I think, on your part, it really is. I think you've seen the light of day.

MR. KARIMJEE: Yes.

THE COURT: There must have been a glow coming down from heaven.

10 MR. KARIMJEE: One more witness, Your Honour, just two questions, and that will be it.

THE COURT: Okay.

STEPHAN NOEL: SWORN

5 EXAMINATION-IN-CHIEF BY MR. KARIMJEE

Q. Officer Noel.

MR. KARIMJEE: The other exhibits, Mr. Clerk?

[DISCUSSION BETWEEN CROWN AND CLERK]

Q. These two boxes, and this box that I'm showing you right now, who had those boxes in their possession?

A. I did, until I turned them over to you yesterday afternoon.

Q. And when were these items taken over by the Ottawa...the Ontario Provincial Police?

A. They were received on the 24th of August 2007, by Constable Richer (ph).

Q. Okay. And is that the receipt?

103. Volume 2
R. v. Kranz
S. Noel - ex-in-ch

A. That's the property report that he completed before lodging the items in the vault.

Q. Okay. And I guess this is the original and that's a copy.

A. This would be a copy. This would stay in the records.

MR. KARIMJEE: I'll request that this be marked as exhibit and that it reflect the date that it was seized.

THE COURT: Any objection?

MR. NUGENT: No objection, Your Honour.

THE COURT: Thank you. Exhibit nine.

EXHIBIT NUMBER 9 - Property Report of Aug.
24/07 - Produced and Marked.

MR. KARIMJEE: Q. This is the box as well.

A. It is.

THE COURT: Is that empty, by the way?

MR. KARIMJEE: It's empty, Your Honour.

THE COURT: Okay.

MR. KARIMJEE: All the items from there were removed.

THE COURT: I see. All right.

MR. KARIMJEE: All right.

Q. Officer, for some reason, you wanted to use to this as part of the exhibit as well.

A. It's just they were stored inside that box, under seal. And so, I offered them up in case it

5 became an issue. I wanted to let you know and let the Court know that's what they were contained in. And that was contained in the vault. That's it.

MR. KARIMJEE: I just going to request that this be marked as an exhibit as well.

THE COURT: Okay, the next exhibit.

THE COURT CLERK: Number 10.

10 THE COURT: Thank you.

EXHIBIT NUMBER 10 - Storage Box - Produced and Marked.

15 MR. KARIMJEE: Thank you.

Q. And you were also involved in seizing the tape from the Pioneer gas.

A. Yes, sir. I was.

Q. Thank you very much.

20 MR. KARIMJEE: Those are all the questions I have.

THE COURT: Thank you.

CROSS-EXAMINATION BY MR. NUGENT

25 Q. Sorry. Was that Constable Noel or is it....?

A. Detective Constable Noel.

Q. Detective Constable, okay. Can I call you Officer Noel or do you prefer Detective Constable?

A. Detective Constable's fine.

30 Q. Detective Constable?

A. Thank you.

5 Q. Okay. So, I understand you were the one who seized the package in question, the boxes and whatnot.

A. No, sir.

Q. Okay.

A. I was assigned to the investigation on the 1st of November 2007.

10 Q. Okay.

A. The responding uniform patrol officer was Constable Richer.

Q. Okay.

A. And he's the one that received the box from Mr. Pettis.

15 Q. Okay. So, you took custody of the box from?

A. The vault.

20 Q. From the vault, okay. And do you have knowledge of what happened to the packaging in terms of what tests were run on it?

A. I don't have technical knowledge of it. I do know, just as in common knowledge as a police officer, that it was chemically treated.

25 Q. Okay.

A. For fingerprints.

Q. Okay.

A. And that that yielded negative results.

30 Q. Okay. Now, when you say "it was", we've heard some evidence today that there was a box within the box.

5 A. That's correct. I opened the box yesterday and that's what I saw, a box within a box, and a smaller box within that.

Q. Okay. So, three boxes, were all three boxes tested for fingerprints or just the one?

10 A. I couldn't tell you. I didn't conduct those examinations myself, that was done by our identification unit.

Q. Okay. What about any tests with regards to foreign agents that might be hazardous?

A. To my knowledge, there was no such tests conducted.

15 Q. No such tests conducted, okay. Now, did you attend the Pioneer gas station with, I think, it's Detective Constable Pettis?

A. I did. I did.

THE WITNESS: If I may refer to my notes, Your Honour?

20 THE COURT: Any objection from counsel?

MR. NUGENT: I don't have any objection.

MR. KARIMJEE: No.

THE COURT: Go ahead, Detective Constable.

THE WITNESS: Thank you.

25 A. It would've been on the 2nd of November 2007.

MR. NUGENT: Q. Okay. Now, did you assist with the phone trace to that...?

30 A. No, I had nothing to do with that. My involvement, if I may give the Court a little bit of background, I was essentially advised that I would be

5 taking over the investigation into this box having arrived at Mr. and Mrs. Pettis's residence, because that address is in our jurisdiction.

Q. Okay.

10 A. I had some knowledge from my supervisor that there was an ongoing...that there had been previous incidents involving military police in different jurisdictions.

Q. Okay.

15 A. And that now there was some calls that were being made.

Q. Sorry?

20 A. There were some calls being received by the complainants.

Q. Okay.

25 A. I was asked to basically look at the overall investigations that went on, because they were in different jurisdictions, and see whether there might be a pattern of criminal harassment going on.

30 Q. Sure. Now, when you attended the gas station, you were able to ascertain which phone booth the calls were made from, correct?

35 A. That was already...that was information that was already established. And when I received a call, Constable Pettis telling me that there was...that there would be a call that he would've received, it was an indirect receipt of information through my supervisor. There had been other calls, one including a death threat.

5 So, at that time, I was involved in the writing of a search warrant for a handgun. That went on all night. The following day I made contact with Mr. Pettis.

Q. Sorry, you were...?

A. This is on the 1st, the 1st of November.

10 Q. Right. A warrant for a handgun, what...?

A. In a different unrelated case.

Q. All right, sir.

A. A completely unrelated case.

15 Q. Okay.

A. So, I was up all night.

Q. Sure.

A. The following morning, I executed a warrant. And on the second, I attended...I made contact with Mr. Pettis.

20 Q. Right.

A. And we convened to meet on Ogilvie, at Pioneer gas station.

Q. Okay.

25 A. I believe it was close to Cummings Avenue.

Q. Okay.

A. When I got there, Mr. Pettis says this is the wrong...this is the wrong gas station.

Q. Okay.

30 A. And we ended up going to 2160 Ogilvie, which is at the corner of Blair and Ogilvie.

Q. Okay.

A. There's a Pioneer gas station there.

Q. Okay.

A. And in speaking with Mr. Jeha, who's the owner or manager, he took us to where the security camera set-up was, recordings. And we viewed the video there.

Q. Okay. You viewed the video. So, did you...? When you got to the right gas station, was there more than one phone booth? Or were you able to ascertain which phone booth was the right one?

A. There was.... I think it was a couple of phone booths, by memory. But what we did is we tried to look and see whether there's any video security equipment that might encompass that, pan to that.

Q. Okay.

A. And there was some cameras set up for drive-offs or people that drive off without paying from the pumps. And it's just further north from that set-up. Like from where the gas pumps are, it's further north. So, basically, we just looked at the camera and looked at its potential line of sight.

And then, we said, can we check your security equipment for approximately this time to see whether or not we may see a vehicle or a person go into a phone booth? And that's what we did.

Q. Okay. So, you didn't necessarily ascertain which phone booth. It was just there's a

security camera that's covering both phone booths. So, let's just get the tape for that.

5 A. Yeah, I remember going to the phone booth and looking. But as far as confirming that that phone was that number, to me that was a given. Constable Pettis had already established that, and I wasn't questioning. I had no reason to question that.

10 Q. Okay.

A. That was information that he'd received from his service, I believe. So, it was a given, to me. This is the right phone. This is the right phone booth.

15 Q. Okay.

A. We looked to see if there might've been any potential evidence that might've been visible to us. I've gone to break and enters where people leave driver's licences behind, should you be so lucky. There was nothing obvious to us. So, my focus was more on getting video. If it was a possibility that we had video, then let's get video.

20 Q. Okay. And lastly, were any tests done on the phones themselves, like a fingerprint lifted from either of these phones?

25 A. Not by the OPP, that's for sure.

Q. Not by the OPP.

A. No.

Q. Okay. Thank you very much. That was enlightening.

30 MR. NUGENT: Thank you, Your Honour.
Nothing further.

111. Volume 2
R. v. Kranz
Proceedings

THE COURT: Any re-exam of this officer?

MR. KARIMJEE: No. I believe the only thing I need to do is I think that's the other part of the box that still remains.

THE COURT: Okay. We'll make that another exhibit.

MR. KARIMJEE: Thank you.

THE COURT CLERK: Exhibit number 11.

THE COURT: Thank you.

EXHIBIT NUMBER 11 - Last Part of Box -
Produced and Marked.

THE COURT: Thanks, Detective Constable. You're free to go, sir.

THE WITNESS: Thank you. Thank you, Your Honour.

MR. KARIMJEE: That's the Crown's case, Your Honour.

THE COURT: Okay.

MR. NUGENT: Your Honour, if it pleases the Court, I would request to adjourn until tomorrow to make submissions. I'd have a chance to review my notes before I make my submission. I don't know if my friend is contrary minded.

THE COURT: Yes, I have no problem with that. Do you wish your client to receive the preliminary warning at this time or

112. Volume 2
R. v. Kranz
Proceedings

would you prefer to have that in the morning? It's up to you.

MR. NUGENT: We could do it now, Your Honour.

THE COURT: Mr. Clerk, would you give the preliminary caution to the accused? Do you know what I'm speaking about?

THE COURT CLERK: I'm sorry, Your Honour. I'm not aware of which caution that would be.

THE COURT: It's the warning that you give to an accused after the Crown's evidence is in with respect to a preliminary hearing. What is it, 572?

MR. KARIMJEE: I'm not sure of the exact section. I can look that up, Your Honour.

THE COURT: As soon as you find it, I'll do it for you.

[DISCUSSION BETWEEN THE COURT AND CLERK]

THE COURT: Yes, it's 541. Would you come forward please, Mr. Kranz? I just want to make sure that we've arraigned the accused on the ones that I think we arraigned the accused on. And that is, counts one, three, four, and five. Is that correct?

MR. KARIMJEE: I think they were all the counts on that one information.

THE COURT: All the counts?

115. Volume 2
R. v. Kranz
Proceedings

CERTIFICATION

THIS IS TO CERTIFY THAT
The foregoing is a true and
accurate transcription from
my recordings made herein,
to the best of my skill and ability.



Lynne Johnson

**Please be aware that any transcript
affixed with a photocopied court reporter
signature is not deemed to be a certified
true copy as set out above and is not in
accordance with Ont. Reg. 587/91 of the
Courts of Justice Act.